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GOVERNMENT CODE § 6103

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8 County Sanitation Districts of Los Angeles
9 County Nos. 14 and 20

10 SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF LOS ANGELES

12 Coordination Proceeding
13 Special Title (Rule 1550(b))

Judicial Council Coordination
Proceeding No. 4408

14 **ANTELOPE VALLEY GROUNDWATER
15 CASES**

ASSIGNED FOR ALL PURPOSES TO:
The Honorable Jack Komar

16 Included Actions:

**JOINT OPPOSITION OF PUBLIC
& PRIVATE LANDOWNERS TO
THE MUTUALS' OBJECTIONS
AND CHALLENGES TO THE
ELECTION OF LANDOWNER
REPRESENTATIVES ON
WATERMASTER BOARD**

17 Los Angeles County Waterworks District No. 40 v.
18 Diamond Farming Co.
19 Superior Court of California, County of Los
20 Angeles, Case No. BC 325 201

21 Los Angeles County Waterworks District No. 40 v.
22 Diamond Farming Co.
23 Superior Court of California, County of Kern,
24 Case No. S-1500-CV-254-348

25 Wm. Bolthouse Farms, Inc. v. City of Lancaster
26 Diamond Farming Co. v. City of Lancaster
27 Diamond Farming Co. v. Palmdale Water Dist.
28 Superior Court of California, County of Riverside,
consolidated actions, Case Nos. RIC 353 840,
RIC 344 436, RIC 344 668.

DATE: June 30, 2016
TIME: 10:00 A.M.
PLACE: 111 N. Hill Street
Los Angeles, CA
DEPT.: 222

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1 Cross-Defendants, the City of Los Angeles, by and through its Department of Airports,
2 Los Angeles World Airports (LAWA), the County Sanitation Districts of Los Angeles County
3 Nos. 14 and 20 (LA County Sanitation), the Antelope Valley - East Kern Water Agency
4 (AVEK), Bolthouse Properties, LLC, Wm. Bolthouse Farms, Inc., Crystal Organic farms LLC,
5 Diamond Farming Company, Granite Construction Company, Grimmway Enterprises, Inc., the
6 Antelope Valley Ground Water Agreement Association (AGWA), Lapis Land company, LLC,
7 Tejon Ranchcorp, Craig Van Dam, Delmar D. Van Dam, Gary Van Dam, Gertrude J. Van Dam
8 (collectively, “Overliers”) submit this opposition to the Objections and Challenges to the
9 Election for the Two Landowner Watermaster Seats filed by the ANTELOPE VALLEY
10 UNITED MUTUALS GROUP, ADAMS BENNETT INVESTMENTS, LLC and SERVICE
11 ROCK PRODUCTS, LP (collectively the “Mutuals”).

12 **I.**
13 **INTRODUCTION**

14 The Judgment and Physical Solution was entered on December 23, 2015. It mandates the
15 formation of a five-member Watermaster Board, and provides in Section 18.1.1 that two
16 landowner representatives to the Board shall be “elected by majority vote of the landowners
17 identified on Exhibit 4 (or their successors in interest) . . .” More than five months later,
18 however, and largely as a result of the Mutuals’ insistence upon certain rules and procedures not
19 included in the Judgment and not agreed to by the parties, the two “landowner” seats on the
20 Watermaster Board have yet to be filled, thereby delaying implementation of the Physical
21 Solution. After five (5) separate public meetings held over a period of three months (each of
22 which was duly noticed) and a meet and confer ordered by the Court, nearly all parties listed in
23 Exhibit 4 of the Judgment who participated in the process agreed to rules and procedures (which
24 are entirely consistent with the provisions of the Judgment) for the nomination and election of
25 the two “landowner” representatives on the Watermaster Board -- with counsel for the United
26 States monitoring and overseeing the election. (See Chisam Declaration, ¶¶ 2, 7 and 8.)¹

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28 ¹ Declaration of Dwayne Chisam in Support of Joint Opposition of Public and Private Landowners to the Mutuals’
Motion to Interpret the Judgment, initially filed on May 12, 2016, attached hereto as Exhibit A.

1 These extensive efforts to reach agreement on rules and procedures for the nomination
2 and election of the two landowner representatives have been public, transparent and fair.
3 Moreover, the rules and procedures to which almost all parties participating in the process have
4 agreed are entirely consistent with, and fully implement the relevant provisions of the Judgment,
5 and afford due process to all interested parties.²

6 The Court denied an earlier motion of the Mutuels to interpret the Judgment on almost
7 identical grounds. Now the Mutuels object and challenge the election for the two landowner
8 representatives on the Watermaster Board because some landowner parties have more votes
9 solely due to their larger Exhibit 4 water allocation. This claim of “lack of fairness” by the
10 Mutuels to a set of Rules and Procedures that are entirely consistent with the Judgment is not a
11 legally sufficient justification for the Court to alter or overturn the election results. The Mutuels’
12 motion should be denied for each of the following reasons:

- 13 • The Judgment’s provisions relating to the election of landowner representatives to
14 the Watermaster Board are clear and unambiguous and the method to elect those
15 representatives is consistent with the Judgment;
- 16 • The election of a single alternate is not inconsistent with the Judgment;
- 17 • The Judgment unambiguously provides that all persons listed in Exhibit 4
18 (including the “public” overlying landowners listed therein) are entitled to cast
19 votes for the two “landowner” seats;
- 20 • The Judgment does not require that the two “landowner” seats be filled by
21 persons representing differing “interests” or different water uses;
- 22 • The Judgment further provides that any person listed in Exhibit 4 who purchases a
23 water right from another person listed on Exhibit 4 (or that person’s successor in
24 interest) shall have the right to cast the votes associated with the purchased water
25 right;
- 26 • The Judgment should not be amended or modified while appeals therefrom are
27 pending, and
- 28 • The objections are not ripe.

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²The agreed rules and procedures for nominating and electing the two landowner representatives are set forth in Exhibit B, attached hereto.

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II.
VOTING RULES TO ELECT LANDOWNER REPRESENTATIVES
TO THE WATERMASTER BOARD USED PROPORTIONATE SHARE VOTING — AS
REQUIRED BY THE JUDGMENT

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The Mutuels misinterpret the Judgment and the Rules when they argue that the Rules grant “two votes for each acre foot of water in the Overlying Production Rights Column of Exhibit 4 to the Judgment.” (Objection, 3:18-19). The critical provision of the Judgment that addresses this issue is section 18.1.1. This section provides for the election of two (2) landowner Parties to the Watermaster Board “selected by majority vote of the landowners identified on Exhibit 4 (or their successors in interest) based on their proportionate share of the total Production Rights identified in Exhibit 4.” (Judgment, §18.1.1.) The Judgment does not define “proportionate share” and does not mandate one vote per acre foot of overlying production. Consistent with this provision, however, the Rules use the most direct way to establish this proportionate share by providing one vote for each acre foot of water set forth in the Overlying Production Rights column of Exhibit 4 for each landowner Party representative seat.

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The Mutuels argue that the use of one vote for each acre foot of production listed on Exhibit 4 doubles each Exhibit 4 Party’s proportionate share of the Overlying Production Rights, and that the “by doubling the proportionate share, each landowner party is allowed to effectively determine the selection of **both** Landowner Watermaster seats.” (Objection, 4: 6-9, emphasis in original.) That is wrong and misunderstands the meaning of “proportionate.” Proportionate means the comparative relation or ratio. (Webster’s New World Dictionary.) Therefore, regardless of whether there is one vote per acre foot of production from Exhibit 4 for each landowner seat or for both landowner seats, the *proportion* of votes held by each landowner remains consistent with the ratio from Exhibit 4. The proportionate share has not been doubled as alleged by the Mutuels but has instead remained consistent.³

³ The Rules do *not* give the Exhibit 4 landowners two votes for each landowner party representative seat, as alleged by the Mutuels. However, such an approach would be entirely consistent with the language of the Judgment, because each vote would still be based on the proportionate share of the total Production Rights identified in Exhibit 4.

III.

THE ELECTION OF ONE ALTERNATE FOR BOTH LANDOWNER SEATS ON WATERMASTER BOARD IS CONSISTENT WITH THE JUDGMENT

As part of the process of electing the landowner representatives to the Watermaster Board, a majority of the overlying landowners participating in the process agreed to the use of a steering committee to help define election procedures for the landowner representatives. The steering committee was a group of interested landowners that agreed to be a part of the committee, and comprised five members, including a representative of the Mutuels. This steering committee developed rules to implement a voting process that was agreed to by most of the participating landowners, and this process is being used by the United States to run the election.

One of the Rules was to elect an alternate in the event that either of the two landowner representatives was unable to attend a watermaster meeting. The Steering Committee included an alternate because almost all of the initial watermaster votes require unanimity and the landowners did not want the initiation of the watermaster to be delayed if a landowner representative could not participate in a meeting. The Mutuels do not argue that the election of an alternate is inconsistent with the Judgment, only that the Judgment is silent on the issue. Instead, the Mutuels object to the election of “only one” landowner alternate to cover the two landowner seats, when there is no express provision in the Judgment for either one or two alternates. (Objection, 3: 1-2.)

The election of one alternate is consistent with the Judgment. The Mutuels’ objection to the election of one alternate should be denied.

IV.

PUBLIC OVERLYING LANDOWNERS ARE ALLOWED TO VOTE IN THE ELECTION OF THE LANDOWNER REPRESENTATIVES TO WATERMASTER

Attempting to disenfranchise the City of Los Angeles (Department of Airports), County Sanitation Districts of Los Angeles County Nos. 14 and 20, Antelope Valley Joint Union High School District, Rosamond High School, and AVEK from any voice in the selection of the two landowner seats, the Mutuels again argue that these public overlying landowners should not be

1 allowed to vote in the selection of the two landowner seats on the Watermaster Board. This claim
2 conflicts with the clear and unambiguous language of section 18.1.1, which states that the two
3 landowner seats are to be "selected by majority vote of the landowners identified on Exhibit 4."
4 The City of Los Angeles (Department of Airports), County Sanitation Districts of Los Angeles
5 County Nos. 14 and 20, Antelope Valley Joint Union High School District, Rosamond High
6 School, and AVEK are each listed and "identified in Exhibit 4." Therefore, the Judgment clearly
7 provides that each of the public overlying landowners is allowed to vote for the two landowner
8 seats.

9 Nevertheless, the Mutuels argue that the word "landowners" should be understood to
10 mean only "private" landowners, erroneously contending that the "generally understood use of
11 the term 'landowners'" refers only to "private landowner parties" (Objection, 7:8-13.) This claim
12 by the Mutuels is unsupported by fact, reason, or any recognized authority. To the contrary,
13 Merriam-Webster's Online Dictionary defines "landowner" succinctly and solely as, "A person
14 who owns land;" because each owns land, there is no distinction between a private and a public
15 landowner. The Mutuels' request that the Court "interpret" the word "landowners" in section
16 18.1.1 to mean only "private" landowners is without support in fact, law or reason, and should be
17 denied.

18 The Mutuels further argue that "some Exhibit 4 Parties, including AVEK, [] contend that
19 public agencies like AVEK have the right to vote on the selection of, if not hold, either or both of
20 the landowner seats." (Objection 7-8:25, 1-2.) Again, this statement by the Mutuels is wrong.
21 While the public overlying landowners that have joined this opposition (AVEK, LAWA and LA
22 County Sanitation) submit that the Judgment expressly authorizes them to vote for the two
23 landowner seats, none believes or claims the Judgment authorizes them to hold either of the
24 landowner seats.

25 Just as in the Mutuels' prior motion this Court denied on May 25, the Mutuels again
26 argue that the Judgment requires the two landowner Watermaster seats be filled by parties with
27 certain, distinct interests. (See Objection, 6:9-11.) As the opposition explained last time, the
28 erroneous intent alleged by the Mutuels is irrelevant because the Judgment is clear (see Joint

1 Opposition of Public and Private Landowners to the Mutuals' Motion to Interpret the
2 Judgment).⁴ Moreover, the Court has noted that it independently adopted the Judgment and
3 Physical Solution. The Judgment makes clear who will sit on the Watermaster Board (Judgment
4 § 18.1.1) and that the Watermaster shall carry out its duties, powers and responsibilities in an
5 impartial manner without favor or prejudice to any Subarea, Producer, Party, or Purpose of Use.
6 (Judgment § 18.2.) The Mutuals' objection should be denied because the landowner voting has
7 fulfilled the Judgment's command.

8
9 **V.**
CONCLUSION

10 For the foregoing reasons, these private and public Overlying Production Right holders,
11 each of which is listed on Exhibit 4, respectfully submit that the Mutuals' Objections and
12 Challenges to the Election of the Two Landowner Seats should be denied in its entirety. The
13 Court should confirm the top two vote getters to their elected positions as Landowner
14 Representatives on the Watermaster Board and should confirm the third highest vote getter to the
15 Alternate Landowner Representative position.

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18 Dated: June 24, 2016

Respectfully submitted,

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20 ELLISON, SCHNEIDER & HARRIS, LLP

21 By: 

22 Christopher M. Sanders
23 Attorneys for COUNTY SANITATION
24 DISTRICTS OF LOS ANGELES COUNTY
25 NOS. 14 AND 20
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27
28 ⁴ The Joint Opposition of Public and Private Landowners to the Mutuals' Motion to Interpret the Judgment, as well as the Public Overliers Evidentiary Objections to Exhibits and Statements in Declarations Supporting Mutuals' Motion to Interpret Judgment are hereby incorporated into this Opposition.

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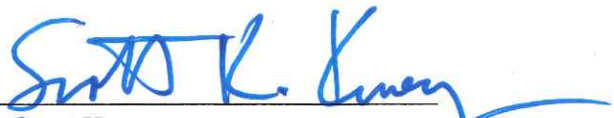
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